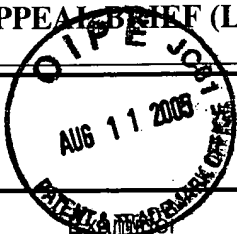| TRANSMITTAL OF APPEAL BRIEF (Large Entity)	Docket No. RBL0085

In Re Application Of: **Rainer Hillebrand**

Application No. 10/048,114	Filing Date March 5, 2002	M. O. Farooq	Customer No. 00832	Group Art Unit 2182	Confirmation No. 6351

Invention: **METHOD FOR AUTOMATICALLY ADAPTING TO THE CAPABILITIES OF A DATA-TRANSMITTING TERMINAL AND A DEVICE SUPPLYING DATA TO SAID TERMINAL REQUESTING THE DATA**

COMMISSIONER FOR PATENTS:

Transmitted herewith ~~in triplicate~~ is the Appeal Brief in this application, with respect to the Notice of Appeal filed on **June 13, 2005.**

The fee for filing this Appeal Brief is: **$500.00**

☒ A check in the amount of the fee is enclosed.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. **02-0385**

☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____
Signature

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Dated: **August 9, 2005**

CC:

P30LARGE/REV06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	)	
Rainer Hillebrand	)	Group: 2182
Serial No. 10/048,114	)	
Filed: March 5, 2002	)	Examiner: M. O. Farooq
Title: METHOD FOR AUTOMATICALLY	)	
ADAPTING TO THE CAPABILITIES OF A	)	
DATA-TRANSMITTING TERMINAL AND	)	
A DEVICE SUPPLYING DATA TO SAID	)	
TERMINAL REQUESTING THE DATA	)	

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Assistant Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal is taken from the Examiner's decision dated December 22, 2004 in the above-identified patent application, finally rejecting Claims 8-14, by way of a Notice of Appeal filed on June 13, 2005.

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No.	Title	Page

I.   REAL PARTY IN INTEREST

The real party in interest is T-Mobile Deutschland GmbH, having its principal place of business at Landgrabenweg 151, D-53227 Bonn, Germany, and the assignee of the present application by virtue of an assignment from the inventor recorded on March 13, 2002 at Reel 012732, Frame 0695, after which the assignee name was changed from DeTeMobil Deutsche Telekom MobilNet GmbH to T-Mobile Deutschland GmbH on May 29, 2002.

II.   RELATED APPEALS AND INTERFERENCES

Neither the Appellant, the Appellant's representatives, nor the assignee know of any other appeals, interferences or judicial proceedings which are related to, will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the pending appeal.

III.   STATUS OF CLAIMS

Pending: Claims 8-14.

Canceled: Claims 1-7.

Withdrawn: None.

Allowed: None.

Objected to: None.

Rejected: Claims 8-14.

On Appeal: Claims 8-14.

Claims 8-14 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,108,709 to Shinomura et al. (hereinafter "Shinomura et al. '709") in view of U.S. Patent No. 5,728,960 to Sitrick (hereinafter "Sitrick '960").

These rejections are appealed.

IV. STATUS OF AMENDMENTS

Claims 8-14 have not been amended since the Final Office Action of December 22, 2004. The Notice of Appeal was filed on June 13, 2005. Claims 8-14 are set forth in the **CLAIMS APPENDIX**.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to data transmission between a data-requesting device and a data-preparing device. The data-requesting device sends information to the data-preparing device regarding the capabilities of the data-requesting device. The data-preparing device then selects the best-suited display format according to the capabilities of the data-requesting device and sends the data to the data-requesting device in that format. The process of the present invention advantageously reduces the resource expenditures for data transmission, lowers the computing performance requirements of the data-preparing device, and lowers the data acquisition and maintenance costs.

Referring to Fig. 1, the process for the automatic adaptation of data to be transferred from a data-preparing device to a data-requesting device of Independent Claim 8 includes the step in which the data-preparing device receives information data about the capabilities of the data-requesting device. The data-preparing device may be, for example, WWW-server 5 and the data-requesting device may be, for example, personal digital assistant (PDA) 1, notebook computer 2, or desktop computer 3. The capabilities of the data-requesting device may include, for example, display resolution capability and the number of representable colors. ¶ [0017]. The data-preparing device receives information data about the capabilities of the data-requesting device via, for example, network 4. The data to be transferred to the data-requesting device is transmitted in correspondence to the pre-determined capabilities of the data-requesting device, for example, by WWW-server 5 transmitting the information data in correspondence to the capabilities of PDA 1, notebook 2, or computer 3 via network 4. ¶ [0018]. A list of usable display formats is transmitted to the data-preparing device, and the data-preparing device, then, according to availability, selects the best-suited display format. For example, WWW-server 5 selects the best-suited display format of the information data requested by PDA 1, notebook 2, or computer 3. ¶ [0018]. By selecting and transmitting

only the best-suited display format of the information data to the data-requesting device, the resource expenditures for data transmission are advantageously reduced.

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VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Independent Claim 8, and Claims 11 and 13-14 depending therefrom, stand rejected under 35 U.S.C. § 103(a) as being obvious over Shinomura et al. '709 in view of Sitrick '960.

B. Claims 9, 10, and 12 stand rejected under 35 U.S.C. § 103(a) as being obvious over Shinomura et al. '709 in view of Sitrick '960.

VII.   ARGUMENT

A. Independent Claim 8, and Claims 9-14 depending therefrom, are not rendered obvious over Shinomura et al. '709 in view of Sitrick '960.

Independent Claim 8 calls for a process for the automatic adaptation of the data to be transferred from a data-preparing device to a data-requesting device to the capabilities of the data-requesting device, in which the data-preparing device receives information data about the capabilities of the data-requesting device, and the information data contain statements in regard to the display format usable by the display of the data-requesting device, and the data to be transferred are transmitted in correspondence to the pre-determined capabilities of the data-requesting device, wherein a list of usable display formats is transmitted to the data-preparing device, and the data-preparing device, then, according to availability, selects the best-suited display format.

Appellant respectfully submits that Shinomura et al. '709 in view of Sitrick '960 does not disclose or suggest the step of having a data-preparing device select, according to availability, the best-suited display format from a list of usable display formats transmitted to the data-preparing device. Shinomura et al. '709 discloses a data sending system that has an alternate forwarding function for the exchange of data by different receiving terminal models. Personal computer 10 performs the alternate forwarding function when the sending process fails to deliver data to a receiving terminal, wherein personal computer 10 then forwards the data to an alternate receiving terminal. Shinomura et al. '709 fails to disclose or teach the step of transmitting a list of usable display formats to the data-preparing device wherein the latter then, according to availability, selects the display format best-suited for the data-requesting device. Appellant also respectfully submits that the Examiner indicated that

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Shinomura et al. '709 fails to disclose such step. (December 22, 2004 Office Action, page 3). Appellant respectfully submits that Sitrick '960 does not cure this deficiency.

Sitrick '960 discloses a process whereby data is processed by an end user controller to provide display presentation of divergence data in a user-selected display format. The process may include tracking the performance of an individual user, e.g., a performer, and transmitting the performance data to an end user, e.g., a teacher or band conductor. The performance data may include divergence data in display formats such as deviation error, deviation direction, timing, pitch, audio, video, and audio visual graphical presentation. The end user selects what type of data is to be displayed from the available display formats. Thus, all of the performance or divergence data is transmitted to an end user, wherein upon receiving the data the end user selects the display format the end user desires to view. The end user may select any format such as deviation error, deviation direction, timing, pitch, audio, video, and/or audio visual graphical presentation. Nowhere does Sitrick '960 disclose a process wherein a list of usable display formats is transmitted to the data-preparing device and the data-preparing device then, according to availability, selects the best-suited display format, as called for in Claim 8. In contrast, Sitrick '960 discloses a process which requires an end user to select a display format from a plurality of transmitted formats. Advantageously, the process of Claim 8 eliminates the need to transmit a plurality of display formats to a data-requesting device because the data-preparing device selects the best-suited display format in accordance with the capabilities of the data-requesting device and then transmits the data in the selected display format, thus reducing the resource expenditures for data transmission, lowering the computing performance requirements of the data-preparing device, and lowering the data acquisition and maintenance costs.

Because the combination of Shinomura et al. '709 and Sitrick '960 does not disclose all of the method steps of Independent Claim 8, Appellant respectfully submits that Claim 8, and Claims 11, 13, and 14 dependent thereon, are not rendered obvious by the combination of these two references. Additionally, the Examiner has provided no teaching or incentive for combining Shinomura et al. '709 with Sitrick '960.

B. Claims 9, 10, and 12 are not rendered obvious over Shinomura et al. '709 in view of Sitrick '960.

Claims 9, 10, and 12, all of which are dependent on independent Claim 8, are not rendered obvious over Shinomura et al. '709 in view of Sitrick '960 for at least the reasons as

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set forth above. Furthermore, Claims 9, 10, and 12 are not rendered obvious over Shinomura et al. '709 in view of Sitrick '960 because neither Shinomura et al. '709 nor Sitrick '960 disclose or suggest the process of Claim 8 wherein the information data are transmitted from the data-requesting device to the data-preparing device.

The disclosures of Shinomura et al. '709 and Sitrick '960 are discussed above. Appellant respectfully submits that Shinomura et al. '709 and Sitrick '960, either alone or in combination, do not disclose or suggest transmitting information data about the capabilities of a data-requesting device from the data-requesting device to a data-preparing device as claimed. Instead, Shinomura et al. '709 merely discloses transmitting data from a personal computer to a receiving terminal without any suggestion of transmitting information data about the capabilities of a data-requesting device. Sitrick '960 discloses transmitting performance or divergence data from an individual user, e.g., a performer, to an end user, e.g., a teacher or band conductor, without any suggestion of the end user transmitting information data to the individual user about the capabilities of the end user controller.
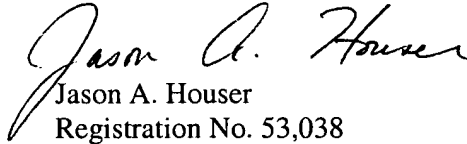
Advantageously, the process of Claims 9, 10, and 12 permits transmission of information data about the capabilities of the data-requesting device to the data-preparing device which eliminates the need for the data-preparing device to transmit data to the data-requesting device in a plurality of different formats. The process of Claims 9, 10, and 12 thereby reduces the resource expenditures for data transmission.

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VIII. CONCLUSION

Appellant respectfully requests reversal of the Examiner's rejections, and allowance of the claims.

Respectfully submitted,

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Registration No. 53,038

Attorney for Appellant

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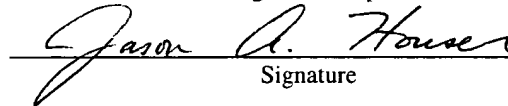Telephone: 260-424-8000
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IX.   CLAIMS APPENDIX

8.   A process for the automatic adaptation of the data to be transferred from a data-preparing device to a data-requesting device to the capabilities of the data-requesting device, in which the data-preparing device receives information data about the capabilities of the data-requesting device, and the information data contain statements in regard to the display format usable by the display of the data-requesting device, and the data to be transferred are transmitted in correspondence to the pre-determined capabilities of the data-requesting device, wherein a list of usable display formats is transmitted to the data-preparing device, and the data-preparing device, then, according to availability, selects the best-suited display format.

9.   Process according to claim 8, wherein the information data are transmitted from the data-requesting device to the data-preparing device.

10.   Process according to claim 8, wherein the information data are transmitted to the data-preparing device over a device engaged between the data-requesting device and the data-preparing device.

11.   Process according to claim 8, wherein the requested data are stored in a central data bank of the data-preparing device and, on call, are formatted by a formatting device into the pre-determined data format and transmitted to the data-requesting device.

12.   Process according to claim 9, wherein the information data are transmitted to the data-preparing device over a device engaged between the data-requesting device and the data-preparing device.

13.   Process according to claim 9, wherein the requested data are stored in a central data bank of the data-preparing device and, on call, are formatted by a formatting device into the predetermined data format and transmitted to the data-requesting device.

14.   Process according to claim 10, wherein the requested data are stored in a central data bank of the data-preparing device and, on call, are formatted by a formatting device into the predetermined data format and transmitted to the data-requesting device.